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Via ECF & Email: Failla_NYSDChambers@nysd.uscourts.gov

Honorable Katherine Polk Failla, U.S.D.J.
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *Schwartz v. HSBC Bank USA, N.A.*, Case No. 14-CV-9525 (KPF)

Dear Judge Failla:

My office, together with co-counsel, represents Plaintiff Bruce Schwartz in the above-captioned case. On December 22, 2016, opposing counsel wrote to the Court to submit the Honorable Paul A. Engelmayer's decision in *Kelen v. Nordstrom, Inc.*, 2016 WL 7373807 (S.D.N.Y. Dec. 16, 2016), which dismissed a Truth in Lending Act claim for lack of standing. I am writing to alert the Court to the fact that the plaintiff in that case has appealed to the Second Circuit. I am attaching a copy of the *Kelen* Notice of Appeal (not including exhibits).

Plaintiff believes that the *Kelen* court misapplied the Second Circuit's recent decision in *Strubel v. Comenity Bank*, 842 F.3d 181 (2d Cir. 2016), and is happy to submit supplemental briefing on *Kelen* if this Court so desires. Plaintiff thanks the Court for its consideration of these matters.

Respectfully,

/s/ Jonathan R. Miller
Jonathan R. Miller

cc: All Attorneys of Record (via ECF & Email)